

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

CHRISTINE A. NEWMAN-WATERS,

*Plaintiff,*

v.

BLUE CROSS/BLUE SHIELD OF  
TENNESSEE, INC., and BLUE CROSS  
AND BLUE SHIELD ASSOCIATION,

*Defendants.*

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No. 1:04-cv-132

*Edgar*

**ORDER**

In accordance with the accompanying memorandum opinion:

- (1) The Association's motion to strike Newman-Waters' affidavit and the two (2) accompanying audio CDs [Doc. No. 31] is **DENIED**;
- (2) That aspect of the Association's motion to affirm the administrator's decision and for a summary judgment [Doc. No. 23] which seeks a summary judgment on Newman-Waters' claim of negligence is **GRANTED**;
- (3) That aspect of the Association's motion to affirm the administrator's decision and for a summary judgment [Doc. No. 23] which seeks a summary judgment on Newman-Waters' claim for benefits under the LTD Program is **DENIED**;
- (4) Newman-Waters' claim for benefits under the LTD Program is hereby **REMANDED** to the Association and the Association is further **ORDERED** to provide Newman-Waters' with the appropriate forms for LTD benefits to be completed by her or her physician(s) and will proceed to consider/review/adjudicate Newman-Waters' claim for benefits under the LTD Program as if her claim had been filed in January of 2003;
- (5) That aspect of the Association's motion to affirm the administrator's decision and for a summary judgment [Doc. No. 22] which seeks a

judgment on the administrative record affirming the denial of Newman-Waters' claim for STD benefits as of September 25, 2002 is **DENIED**; and

- (6) Newman-Waters' for a judgment on the administrative record [Doc. No. 22] is **GRANTED**.

Further, the termination of plaintiff's claims for ERISA short term disability benefits as of September 25, 2002 is **REVERSED** and the plaintiff is hereby **AWARDED** short term disability benefits under the ERISA plan retroactive to that date.

SO ORDERED.

ENTER this *27th day of May, 2005*.

*/s/ R. Allan Edgar*

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R. ALLAN EDGAR

CHIEF UNITED STATES DISTRICT JUDGE